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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 WAI Y. WONG,

12 Plaintiff,

13 v.

14 RASH CURTIS & ASSOCIATES,

15 Defendant,
16
17

Case No.: 3:19-CV-00534-JCS

**DEFENDANT RASH CURTIS &
ASSOCIATES' ANSWER TO PLAINTIFF'S
COMPLAINT AND DEMAND FOR JURY
TRIAL**

18 Defendant RASH CURTIS & ASSOCIATES (hereinafter "Defendant") hereby responds to
19 Plaintiff's Complaint as follows:

20 1. As to paragraph 1, Defendant is not called to admit or deny these allegations. To the
21 extent Plaintiff's allegations imply that Defendant violated the FDCPA or Rosenthal Act, Defendant
22 denies these allegations.

23 2. As to paragraph 2, Defendant lacks sufficient information to admit or deny whether this
24 court has jurisdiction pursuant to 15 U.S.C. § 1692k(d). Should Plaintiff's federal claims be dismissed
25 or rendered moot, Defendant does not consent to this court's exercise of supplemental jurisdiction over
26 any remaining state law claims.

27 3. As to paragraph 3, Defendant does not contest venue at this time.

28 4. As to paragraph 4, Defendant lacks sufficient information to admit or deny these

1 allegations.

2 5. As to paragraph 5, Defendant admits these allegations.

3 6. As to paragraph 6, Defendant admits these allegations.

4 7. As to paragraph 7, Defendant admits these allegations.

5 8. As to paragraph 8, Defendant lacks sufficient information to admit or deny these
6 allegations.

7 9. As to paragraph 9, Defendant lacks sufficient information to admit or deny these
8 allegations.

9 10. As to paragraph 10, Defendant lacks sufficient information to admit or deny these
10 allegations.

11 11. As to paragraph 11, Defendant lacks sufficient information to admit or deny these
12 allegations.

13 12. As to paragraph 12, Defendant lacks sufficient information to admit or deny these
14 allegations.

15 13. As to paragraph 13, Defendant lacks sufficient information to admit or deny these
16 allegations.

17 14. As to paragraph 14, Defendant lacks sufficient information to admit or deny these
18 allegations.

19 15. As to paragraph 15, Defendant lacks sufficient information to admit or deny these
20 allegations.

21 16. As to paragraph 16, Defendant lacks sufficient information to admit or deny these
22 allegations.

23 17. As to paragraph 17, Defendant lacks sufficient information to admit or deny these
24 allegations.

25 18. As to paragraph 18, Defendant lacks sufficient information to admit or deny these
26 allegations.

27 19. As to paragraph 19, Defendant lacks sufficient information to admit or deny these
28 allegations.

1 20. As to paragraph 20, Defendant lacks sufficient information to admit or deny these
2 allegations.

3 21. As to paragraph 21, Defendant lacks sufficient information to admit or deny these
4 allegations.

5 22. As to paragraph 22, Defendant lacks sufficient information to admit or deny these
6 allegations.

7 23. As to paragraph 23, Defendant lacks sufficient information to admit or deny these
8 allegations.

9 24. As to paragraph 24, Defendant lacks sufficient information to admit or deny these
10 allegations.

11 25. As to paragraph 25, Defendant lacks sufficient information to admit or deny these
12 allegations.

13 26. As to paragraph 26, Defendant lacks sufficient information to admit or deny these
14 allegations.

15 27. As to paragraph 27, Defendant lacks sufficient information to admit or deny these
16 allegations.

17 28. As to paragraph 28, Defendant repeats and realleges paragraphs 1 through 27 as though
18 fully set forth herein.

19 29. As to paragraph 29, Defendant lacks sufficient information to admit or deny these
20 allegations.

21 30. As to paragraph 30, Defendant admits these allegations.

22 31. As to paragraph 31, Defendant admits these allegations.

23 32. As to paragraph 32, Defendant lacks sufficient information to admit or deny these
24 allegations.

25 33. As to paragraph 33, Defendant is not called to admit or deny these allegations.

26 34. As to paragraph 34, Defendant is not called to admit or deny these allegations.

27 35. As to paragraph 35, Defendant denies these allegations.

28 36. As to paragraph 36, Defendant denies these allegations.

37. As to paragraph 37, Defendant denies these allegations.

38. As to paragraph 38, Defendant is not called to admit or deny these allegations.

39. As to paragraph 39, Defendant is not called to admit or deny these allegations.

40. As to paragraph 40, Defendant denies these allegations.

41. As to paragraph 41, Defendant denies these allegations.

42. As to paragraph 42, Defendant repeats and realleges paragraphs 1 through 41 as though fully set forth herein.

43. As to paragraph 43, Defendant admits these allegations.

44. As to paragraph 44, Defendant lacks sufficient information to admit or deny these allegations.

45. As to paragraph 45, Defendant admits these allegations.

46. As to paragraph 46, Defendant is not called to admit or deny these allegations.

47. As to paragraph 47, Defendant denies these allegations.

48. As to paragraph 48, Defendant denies these allegations.

49. Pursuant to Federal Rule of Civil Procedure 8(c), Defendant sets forth the following matters constituting an avoidance or affirmative defense:

FIRST AFFIRMATIVE DEFENSE

50. Defendant alleges that Plaintiff's Complaint (and the causes of action alleged therein) fails to state facts sufficient to constitute a cause of action as to the answering Defendant.

SECOND AFFIRMATIVE DEFENSE

51. Defendant alleges that it has no civil liability under the FDCPA or the Rosenthal Act, as any violation was unintentional and resulted notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. 15 U.S.C. 1692k(c); Cal. Civ. Code 1788.30(e).

THIRD AFFIRMATIVE DEFENSE

52. To the extent that any of Defendant's alleged conduct constitutes a violation of the Rosenthal Act, Defendant's liability should be eliminated or reduced because Plaintiff's resulting damages, if any exist, were proximally (legally) caused by the comparative negligence, comparative fault, and/or intentionally wrongful acts, omissions, or other conduct of Plaintiff or other individuals.

FOURTH AFFIRMATIVE DEFENSE

53. Defendant acted at all times in good faith, and without wrongful intent, or willfulness based upon the belief that its actions were legal, proper, and/or privileged.

FIFTH AFFIRMATIVE DEFENSE

54. Defendant alleges that Plaintiff has not suffered a concrete and particularized injury for the alleged violations of the FDCPA and Rosenthal Act so as to confer Article III or prudential standing upon her.

SIXTH AFFIRMATIVE DEFENSE

55. Defendant alleges it has no civil liability under the FDCPA or the Rosenthal Act because Defendant's alleged communications contained an accurate statement regarding the total amount of Plaintiff's alleged obligation.

SEVENTH AFFIRMATIVE DEFENSE

56. Defendant alleges it has no civil liability under the Rosenthal Act because Plaintiff's alleged obligation is not a "consumer debt" and did not arise from a "consumer credit transaction" as defined by California Civil Code §§ 1788.2(e)-(f).

EIGHTH AFFIRMATIVE DEFENSE

57. Defendant alleges that Plaintiff's Complaint is barred because Defendant's actions were taken in reasonable reliance upon information provided by its client.

NINTH AFFIRMATIVE DEFENSE

58. Defendant presently has insufficient knowledge of information on which to form a belief as to whether Defendant may have additional, as yet unstated, defenses available. Defendant reserves herein the right to assert additional defenses in the event discovery indicates that they would be appropriate.

PRAYER

WHEREFORE, Defendant prays for:

1. That Plaintiff takes nothing from this answering Defendant by this Complaint;
2. That Defendant be awarded judgment in this action;
3. For attorneys' fees incurred herein, pursuant to statute;

1 4. For costs of suit incurred herein; and

2 5. For such other and further relief as the Court deems proper.

3 Dated: March 5, 2019

4 ELLIS LAW GROUP LLP

5 By /s/MARK E. ELLIS

6 Mark E. Ellis

7 Attorneys for Defendant

8 RASH CURTIS & ASSOCIATES

9 **DEMAND FOR JURY TRIAL**

10 Defendant RASH CURTIS & ASSOCIATES hereby demands a jury trial in this matter.

11 Dated: March 5, 2019

12 ELLIS LAW GROUP LLP

13 By /s/MARK E. ELLIS

14 Mark E. Ellis

15 Attorneys for Defendant

16 RASH CURTIS & ASSOCIATES